

REMARKS

Claims 1-36 remain pending in this application, all of which stand rejected. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §102

Claims 1, 5-8, and 14 stand rejected under 35 U.S.C. §102(b), as being anticipated by U.S. Patent No. 6,221,071 issued to Sherry ("Sherry"). Applicant respectfully traverses this rejection, since Sherry does not disclose each and every element required by these claims, as amended.

In particular, independent claim 1 has been amended to require the shaft to include a deployment member configured to linearly expand in response to being exposed to a first temperature. While Sherry discloses a deployment member 30 that is configured to linearly expand, it does not do so in response to being exposed to a particular temperature.

Thus, Applicant submits that claim 1, as well as the claims depending therefrom (claims 5-8 and 14), are not anticipated by Sherry, and as such, respectfully request withdrawal of the §102 rejections of these claims.

Claim Rejections-35 U.S.C. §103

Sherry and Zepeda

Claims 1, 5-8, 15-17, 20, 26-30, and 34-36 stand rejected under 35 U.S.C. §103, as being obvious over Sherry in view of PCT Publication WO 99/25260 to Zepeda ("Zepeda"). Applicant respectfully traverses this rejection, since neither Sherry nor Zepeda, alone or in combination, discloses, teaches, or suggests the combination of elements required by these claims.

In particular, as discussed above, independent claim 1 has been amended to require the shaft to include a deployment member configured to linearly expand in response to being exposed to a first temperature. Sherry does not disclose this feature, as discussed above, and Zepeda fails to supplement this failed teaching.

Independent claim 15 has been amended to clarify that the electrode array assumes the outwardly curved shape in response to being exposed to the first temperature, and narrows to a single pointed tip in response to being exposed to the second temperature. While Fig. 1 of Sherry illustrates the retracted electrode array 20 in a low-profile geometry, there is no disclosure that the electrode array narrows to a single point, e.g., as shown in Fig. 4 of the present application. In addition, there is no disclosure in Sherry that the low-profile geometry of the electrode array illustrated in Fig. 1 is assumed in response to a particular temperature. Rather, it appears that this low-profile geometry is assumed only in response to the constraining force applied to it by the member 10. There is no suggestion in Zepeda that the electrode array 20 of Sherry can be configured to narrow to a single pointed tip in response to a second lesser temperature.

Independent claim 28 has been amended to clarify that the single pointed tip of the electrode array is used to penetrate the tissue during introduction of the electrode array. Even assuming that the low-profile geometry of the electrode array illustrated in Fig. 1 of Sherry does form a single pointed tip, it is not disclosed as being used to penetrate tissue, nor would there appear to be any reason to make this modification since the elongate member 10 is used to perform this function with the electrode array fully retracted within the member 10. Zepeda fails to provide any suggestion to modify any process disclosed in Sherry to form the electrode array into a single point tip used to penetrate tissue.

Thus, Applicant submits that independent claims 1, 15, and 28, as well as the claims depending therefrom (claims 5-8, 16, 17, 20, 26, 27, 29, 30, and 34-36), are not obvious over the combination of Sherry and Zepeda, and as such, respectfully request withdrawal of the §103 rejections of these claims.

Sherry, Zepeda, and Sharkey

Claims 2-4, 18, and 19 stand rejected under 35 U.S.C. §103, as being obvious over Sherry, in view of Zepeda, in further view of U.S. Patent Publication 2001/0031963 to Sharkey (“Sharkey”). Applicant respectfully traverses this rejection, since none of Sherry, Zepeda, or Sharkey discloses, teaches, or suggests the combination of elements required by these claims.

In particular, as discussed above, Sherry and Zepeda do not disclose, teach, or suggest a medical probe assembly that includes a deployment member configured to linearly expand in response to being exposed to a first temperature, as required by independent claim 1 from which claims 2-4 depend, or a medical probe assembly that narrows to a single pointed tip in response to being exposed to the second temperature, as required by independent claim 15 from which claims 18 and 19 depend. Sharkey does not supplement these failed teachings.

Thus, Applicant submits that claims 2-4, 18, and 19 are not obvious over the combination of Sherry, Zepeda, and Sharkey, and as such, respectfully request withdrawal of the §103 rejections of these claims.

Sherry, Zepeda, and Shafirstein

Claims 9-13, 20-25, and 31-33 stand rejected under 35 U.S.C. §103, as being obvious over Sherry, in view of Zepeda, in further view of U.S. Patent No. 6,780,177 issued to Shafirstein (“Shafirstein”). Applicant respectfully traverses this rejection, since none of Sherry, Zepeda, or

Shafirstein, alone or in combination, discloses, teaches, or suggests the combination of elements required by these claims.

In particular, independent claim 1 from which claims 9-13 depend has been amended to require the linear expansion of the deployment member to axially displace the electrode array in the distal direction. As previously discussed above, Sherry and Zepeda do not disclose, teach, or suggest a medical probe assembly that includes a deployment member configured to linearly expand in response to being exposed to a first temperature, and while Shafirstein does disclose a deployment member that linearly expands in response to a particular temperature, such actuation does not axially displace an electrode array or any electrode. That is, the razorblades 30 that are deployed from the side of the Shafirstein apparatus are not electrodes that convey electrical energy into the surrounding tissue, but rather elements that conduct thermal energy into the surrounding tissue. In addition, the actuation of the deployment member 32 causes the razorblades to pivot outward—not axially move in the distal direction. Thus, there is no suggestion in Shafirstein to modify the deployment member 30 of Sherry, such that it linearly expands in response to a particular temperature to axially displace the electrode array 20.

With regard to claims 20-25, Sherry and Zepeda do not disclose, teach, or suggest a medical probe assembly that narrows to a single pointed tip in response to being exposed to the second temperature, as discussed above with respect to independent claim 15, and Shafirstein does not supplement this failed teaching.

With regard to claims 31-33, Sherry and Zepeda do not disclose, teach, or suggest forming a single pointed tip from an electrode array and using that single point tip to penetrate tissue, as

discussed above with respect to independent claim 28, and Shafirstein does not supplement this failed teaching.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,



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